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10 UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
11

12 UNITED STATES OF AMERICA,  
13 Plaintiff,  
14 v.  
15 TOBY G. SCAMMELL,  
16 Defendant.  
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19

CASE NO.: 2:13-cr-0733

**DEFENDANT'S UNOPPOSED  
REQUEST THAT THE  
CLERK'S OFFICE BE  
NOTIFIED THAT  
DEFENDANT HAS SATISFIED  
HIS RESTITUTION  
OBLIGATION AND  
ATTACHED PROPOSED  
ORDER**

**[NO HEARING REQUIRED]**

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DEFENDANT'S UNOPPOSED REQUEST THAT THE  
CLERK'S OFFICE BE NOTIFIED THAT DEFENDANT  
HAS SATISFIED HIS RESTITUTION OBLIGATION  
CASE NO.: 2:13-CR-0733

1 Defendant Toby G. Scammell, by and through his counsel, and at the  
 2 suggestion of the United States Probation Office for the Central District of  
 3 California, hereby requests that the Court inform the Clerk's Office that the  
 4 restitution obligation of Mr. Scammell has been satisfied and the records of the  
 5 Clerk's Office should so reflect. The United States Attorney's Office does not  
 6 oppose this request.

### 8 BASES FOR REQUEST

9 1. On August 7, 2014, the Court sentenced Mr. Scammell to a three-  
 10 month term of imprisonment to be followed by a four-year term of supervised  
 11 release and ordered, *inter alia*, that Mr. Scammell pay restitution in the amount of  
 12 \$122,494.05. Dkt. No. 82.

13 2. The Plea Agreement filed on April 16, 2014, pursuant to which Mr.  
 14 Scammell pled guilty approximately four months before his sentencing, provided  
 15 in relevant part that:

16 "The parties currently believe that the applicable amount of  
 17 restitution is no greater than \$192,497. The parties further  
 18 agree, however, that any payments made by defendant in  
 19 satisfaction of the March 17, 2014 final judgment in the parallel  
 20 civil matter SEC v. Toby Scammell, 11-cv-06597-DSF-MRW,  
 21 which requires defendant to pay disgorgement of \$192,497,  
 22 representing profits gained from the offense conduct in this case  
 23 . . . shall be credited toward reduction of defendant's restitution  
 24 obligation in case. The parties agree that it will be defendant's  
 25 obligation to provide notice to the Financial Litigation Unit of  
 26 the United States Attorney's Office for the Central District of  
 27 California in the form of a copy of the check or wire transfer

1 receipt, with reference to the case number in this criminal case,  
2 to receive credit against his restitution obligation.”

3 Dkt. No. 63 at ¶ 7. The plea agreement also required Mr. Scammell to “[m]ake  
4 restitution at or before the time of sentencing.” *Id.* at ¶ 2(h).

5 3. In satisfaction of paragraphs 7 and 2(h) of the Plea Agreement, on  
6 August 4, 2014 (three days before sentencing), Mr. Scammell filed with the  
7 Clerk’s Office a Notice of Payment reflecting that he had paid to the Securities and  
8 Exchange Commission \$192,497 on July 31, 2014. Dkt. No. 78.

9 4. On August 7, 2014, Judgment was imposed and Mr. Scammell was  
10 ordered to pay restitution in the amount of \$122,494.05, Dkt. No. 82 at 1, which  
11 was approximately \$70,002.05 less than the \$192, 497 Mr. Scammell had already  
12 paid, given notice of, and was entitled to be credited toward restitution pursuant to  
13 the terms of the Plea Agreement.

14 5. Thereafter, and at various times, Probation Officer Brandon Schneider  
15 attempted to confirm with the Clerk’s Office and the United States Attorney’s  
16 Office that the restitution obligation has been satisfied in this case. It was  
17 suggested by the United States Attorney’s Office to the Probation Office, who  
18 relayed the request to the undersigned counsel for Mr. Scammell, that the best  
19 means to clarify this issue was by a motion such as this one, which the United  
20 States Attorney’s Office would not oppose.

21 6. On approximately March 13, 2017, Assistant United States Attorney  
22 Stephen Cazares and United States Probation Officer Brandon Schneider were  
23 provided a draft of this motion and informed of the content of the proposed order  
24 (which is as stated in the conclusion below), and each indicated his respective  
25 office had no opposition to the granting of the request.

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**CONCLUSION**

For the foregoing reasons, and based on the entire record in this case, it should be ordered that the defendant in this case has satisfied his restitution obligation and the records of the Clerk's Office should so reflect.

Dated: March 27, 2017

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: /s/ Leo P. Cunningham  
Leo P. Cunningham

Attorneys for Defendant  
Toby G. Scammell